

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5805

IN THE MATTER OF:

Served February 4, 2000

Application of KEEN)
TRANSPORTATION LTD. for)
Temporary Authority --)
Irregular Route Operations)

Case No. AP-99-89

Applicant seeks temporary authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver.¹ The application is unopposed.

Under Title II of the Compact, Article XI, Section 13(a), the Commission may grant temporary authority if there is an immediate need for service that is not available. Under Regulation No. 54-06(a), a temporary authority applicant must demonstrate fitness.

Applicant proposes commencing operations with eight vans and two sedans. Applicant's proposed tariff contains hourly rates and per capita rates for service under a contract with LogistiCare Solutions, LLC.

LogistiCare has applied for temporary and permanent authority in order to perform a contract with the Washington Metropolitan Area Transit Authority (WMATA).² The contract requires LogistiCare to operate a reservation system for the benefit of disabled individuals participating in WMATA's MetroAccess program and to ensure that program participants receive timely and adequate transportation service. The MetroAccess program is WMATA's means of complying with the Americans with Disabilities Act of 1990,³ which in pertinent part prohibits discrimination against the disabled by public transportation providers.

¹ Applicant also has applied for a certificate of authority in Case No. AP-99-88.

² Temporary authority was granted to LogistiCare January 13, 2000. In re LogistiCare Solutions, LLC, t/a LogistiCare, No. AP-99-86, Order No. 5783 (Jan. 13, 2000). Approval for permanent authority is pending. See In re LogistiCare Solutions, LLC, t/a LogistiCare, No. AP-99-87, Order No. 5776 (Dec. 22, 1999).

³ 42 U.S.C. § 12101, et. seq. (1999).

LogistiCare intends to subcontract much, but not all, of the transportation service to Keen and four current WMATC carriers.⁴ Keen and the other subcontractors will operate vehicles furnished by LogistiCare.

Applicant filed a balance sheet as of December 20, 1999, showing assets of \$128,000; liabilities of \$100,000; and equity of \$28,000. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$2,282,000; expenses of \$1,008,000; and net income of \$1,274,000.

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

The application is supported by an affidavit from Kenneth L. Hoggard, operations manager for LogistiCare. According to Hoggard, LogistiCare will rely on Keen to satisfy twelve to fifteen percent of MetroAccess's load demand, with service scheduled to commence January 15, 2000. Although LogistiCare has made alternative arrangements to satisfy this demand while Keen's applications for WMATC authority are pending before this Commission, Hoggard's affidavit makes it clear that overall system reliability will suffer until such time as Keen is authorized to operate its contract.

Based on the evidence in this record, the Commission finds that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

The Commission further finds that applicant has demonstrated LogistiCare has an immediate need for contract passenger carrier service between points in the Metropolitan District, sufficient to satisfy a substantial portion of WMATA's requirements under the MetroAccess program, and that such service is not available from existing providers. The lack of any protest from existing carriers corroborates applicant's showing.⁵

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, notice of temporary authority shall be issued to applicant authorizing applicant to commence transporting passengers for hire between points in the Metropolitan District, under the MetroAccess program, in vehicles with a seating capacity of less than 16 persons only, including the driver, for a period not to exceed 180 days.

⁴ The four WMATC carriers are: Battle's Transportation, Inc., WMATC No. 62; Transportation Management Services, Inc., WMATC No. 170; Graham's Transportation Service, Inc., WMATC No. 307; and Answers, Inc., WMATC No. 488.

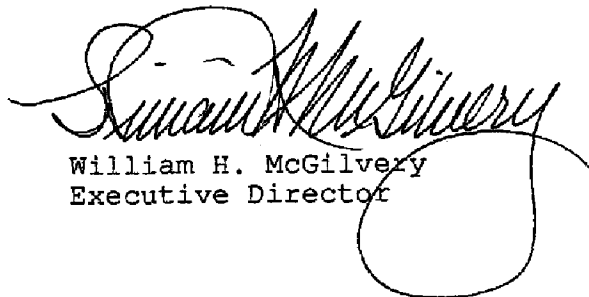
⁵ In re R.V. Goebel Family, Inc., No. AP-92-19, Order No. 3959 (June 18, 1992).

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until notice of temporary authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of temporary tariff no. AP-99-89 in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. AP-99-89 is hereby assigned.

4. That the grant of authority herein shall be void, and the application shall stand denied, upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director

